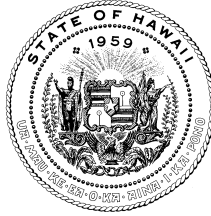


LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

**HAWAI'I ISLAND BURIAL COUNCIL  
MEETING MINUTES**

**PETER T. YOUNG**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
DEPUTY DIRECTOR - LAND

**DEAN NAKANO**  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**DATE: THURSDAY, SEPTEMBER 21, 2006**

**TIME: 9:00 A.M.**

**PLACE: NATURAL ENERGY LABORATORY HAWAI'I AUTHORITY  
73-4660 QUEEN KA'AHUMANU HIGHWAY  
KAILUA-KONA, HI**

**ATTENDANCE:**

HIBC Members: Charles Young, Chair  
Ululani Sherlock, Vice Chair, Hilo  
Ronald Dela Cruz, Kohala  
Leningrad Elarionoff, Kohala  
Roy Helbush  
Ku Kahakalau, Hamakua  
Kaleo Kualii'i, Kona  
Pele Hanoa, Ka'u  
Cynthia Nazara, Kona

Absent: Dutchie Saffrey, Puna  
Anna Cariaga, Ka'u  
Jacqui Hoover

SHPD Staff: Melanie Chinen, SHPD Administrator  
Keola Lindsey, SHPD History and Culture Branch  
Julie Taomia, SHPD Archaeology Branch  
Julie China, Deputy Attorney General

Guests: George K. Lindsey Bill Brooks  
Keoni Choy Tom Yamamoto  
Norman Gonsalves Carl Carlson  
John Roberts Geri Bell  
Iwalani Arakaki Nani Langridge  
Byron Moku Ruby P. Keanaaina-McDonald  
Curtis Tyler Alan Haun  
Hannah Kihalani Springer

## **I. OPENING REMARKS**

HIBC Chair Charles Young (Young) called the meeting to order at 9:05 a.m.

Pele Hanoa (Hanoa) offered a pule.

Young introduced George Lindsey (G. Lindsey) an advisor to the Lieutenant Governor and the Lingle Administration, who was in attendance.

The HIBC members, SHPD staff and the Deputy Attorney General introduced themselves to the audience.

## **II. APPROVAL OF THE JULY 20, 2006 HIBC MEETING MINUTES**

***A motion was made to defer approval of the July 20, 2006 HIBC meeting minutes until right before item IV.C. of the meeting agenda. (Kuali'i/Sherlock)***

Kaleo Kuali'i (Kuali'i) said he would like to address the portions of the minutes related to the Kaloko Heights project, which is item IV.C. of the meeting agenda. Kuali'i said he will explain more when the discussion occurs.

**Vote: All in Favor**

## **III. BUSINESS**

### **A. DISCUSSION OF FUNDING FOR ISLAND BURIAL COUNCILS**

**Information/Recommendation:** Discussion of the funding and support currently provided for Island Burial Councils. Recommendations by the HIBC regarding funding for Island Burial Councils. The HIBC Chair will update the HIBC on an August 30, 2006 meeting held in Honolulu in which the budget for Island Burial Council's was discussed.

Young said there is no budget for the HIBC.

Melanie Chinen (Chinen) said the operational cost of the councils is included in the State Historic Preservation's budget, but it is not a separate line item.

Hanoa said that in the past, the HIBC was provided lunch. That has stopped. Hanoa asked if lunch could be prepared for the HIBC.

Chinen said that money for lunch came out of the SHPD's budget. The HIBC was the only Council which was provided lunch. The question was raised whether lunch could be provided for other Burial Councils. Chinen did not know if this was scrutinized closely because there was a financial audit of the department in the prior year where some of the

expenditures were questioned. Chinen said the SHPD was told that lunch was not an authorized expenditure and that the SHPD had to stop providing lunch.

Hanoa said HIBC members travel long distances to the meetings. Hanoa said it is over 100 miles from her home in Ka'u to this meeting in Kona and back. Hanoa said it is sad that lunches cannot be provided.

Chinen said she understands that, but it comes down to what the Department of Accounting and General Services (DAGS) considers an authorized expenditure. It is not an issue of not having money, because the SHPD provided lunches in the past and was willing to continue to do so, but those expenditures are not approved at a higher level of State Government.

Young said that he joined the HIBC in 1999 and lunches were provided and it continued until recently, so there is a precedent. Young said the other concern is that the HIBC may meet at remote locations, many times to accommodate the public and families, and there is no nearby place to buy lunch. This island is so big, and the members travel great distances so getting lunch was well received by HIBC members.

Chinen said she used to receive a per diem for travel, but after the audit she no longer receives a per diem because of the type of position she holds. A lot of expenditures that may have been incurred were brought to the Department's attention as not being authorized expenditures. If the council's would like to pursue this issue it may require a policy change. Chinen encouraged the council to write to the director to express their concerns.

G. Lindsey said his office should also be sent a copy of the letter. If the legal determination has been made that these types of expenditures are not authorized, it can be investigated whether there is another funding mechanism.

Ron Dela Cruz (Dela Cruz) said the HIBC members do get reimbursed for mileage and asked if lunches would require legislative approval.

Chinen said it really has to do with DAGS approving lunches as an authorized expenditure. Chinen said that mileage reimbursement is clearly an authorized expenditure for Board members and State employees. Chinen said SHPD staff are available to assist HIBC members in filling out the forms for mileage reimbursement.

Kuali'i said another concern is additional staffing for the SHPD.

Chinen said she can update the HIBC on what the SHPD has submitted and it would be helpful if the HIBC submitted a letter of support for what has been requested. The Department's budget is being discussed right now in Budget and Finance. Each Division has been asked to prioritize their requests.

Chinen said the SHPD has asked for additional clerical positions over the next biannual, one which will be assigned to Hawai'i Island which will free the current staff up from clerical duties which they have to cover in addition to their professional duties.

The SHPD also requested an Investigator position. That position has been moved to the second year of the biannual 2008-2009. The SHPD has also requested a contract manager and three cultural historians, one which will be based on Hawai'i in addition to the position which already exists and is filled. The second cultural historian would be based on Kaua'i and third would cover Moloka'i, but be based out of Oa'hu and assist with cases there.

Young asked how soon the letter of support would be need and who it should be sent to.

Chinen said address the letter to the DLNR Chair and copy Budget and Finance and the Governor's office. The sooner the letter is sent, the better because the DLNR Chair is negotiating on carving out the budget. As a Department, a lot more has been asked for and there is a certain bottom line that must be met in the first year

Kuali'i asked about financing other than the State. The Hokuli'a settlement stipulates that several positions on Hawai'i Island would be funded.

Chinen said she has not had the chance to review the Hokuli'a Settlement Agreement, but will look into it. One of the issues the audit raised was potential conflicts on interests when Hokuli'a was funding State positions. If the settlement requires it, the SHPD will definitely look into it.

Young asked for the specific details of SHPD's budget request so that it can be incorporated in the council's letter of support. The HIBC will also have to make and pass a motion authorizing someone from the HIBC to write the letter.

Chinen said the direct impact of receiving additional support would be freeing professional staff from clerical functions they should not have to cover. Another issue will be finding a bigger office space for Hawai'i Island staff, especially if more positions are added. The SHPD is also looking for office space for Kaua'i staff, as the Kaua'i archaeologists works out of her home. One goal of finding new office space is to improve the curation conditions of the iwi in SHPD custody on Hawai'i and Kaua'i.

Young said he attended an August 30, 2006 meeting on O'ahu with MLIBC Chair Charles Maxwell and Vice-Chair Dana Hall. There were a number of issues covered that were relative to the MLIBC. Young wanted to bring back two issues that were discussed to the HIBC. One is SHPD's efforts to fund additional positions. There is concern that the State is competing with the private sector to fill positions.

Young said Bob Awana from the Governors office was also at the August 30<sup>th</sup> meeting. Young said the position he tried to represent was that there needs to be improved communication between the Department and the HIBC and between the IBC's themselves.

Dela Cruz said the State approves these positions and then the challenge becomes finding people who are qualified. There were discussions a while ago about looking within the universities to fill positions.

Chinen said that is an option the SHPD is exploring. Chinen said the SHPD is looking for a History and Culture Branch Chief. The minimum qualifications are a BA in Hawaiian

Studies or History or a related field and a MA is preferred. The Division would like someone knowledgeable in Hawaiian culture because so much of the work is in that field, but the SHPD also needs someone who meets the requirements of the Federal Government.

Dela Cruz said the problem sometimes is that a person may be very knowledgeable in culture, but does not have the palapala.

Chinen agreed. The National Park Service has criteria for a cultural historian. Chinen told them it is difficult because people who have lived the culture may not have the paper, but they are definitely experts in culture. Chinen said if she does not meet the National Park Services criteria, one-third of the Division's budget is in jeopardy.

Ulu Sherlock (Sherlock) said that there are many students coming out of UH-Hilo that may be qualified, but the question becomes whether they would be willing to move to Kona where the job will be based.

Curtis Tyler (Tyler) said na mea hawai'i on Hawai'i Island are under constant attack. Tyler said for some time now, it appears the SHPD has been gutted. Tyler said it may have started with a previous administration and there does not seem to have been much improvement. Tyler was glad the subject of lunches came up because some HIBC members drive extraordinary distances to attend the meetings, which are always very long.

Tyler said lunch would be \$100 dollars a month times 12 meetings a year. That would be twelve hundred dollars a year at the most. Tyler urged the Office of the Governor and Lieutenant Governor to immediately become involved in this issue. Lunch is going to be the symbol of whether or not this State cares about na mea hawai'i.

Tyler urged the Governor's and Lieutenant Governor's offices to look into the staffing within the SHPD. Tyler said every time a good person leaves the Division, it puts more of a load on the staff left behind. There is only so much one person can do. Tyler said the Hokuli'a Settlement mandates funds for at least one position.

Tyler said he is glad George Lindsey is here at the meeting because if he had attended as many meetings as Tyler has, Lindsey would understand that Tyler is not one isolated, disgruntled person coming forward, this is something that has been going on for decades. Tyler he said this is an opportunity for the Administration to do what is pono and make things pono, because it is long overdue. Anything Tyler can do as a life long resident of Kona, Tyler would be willing to help.

Young said Tyler has heard the requests the SHPD will be putting in terms of staffing and the fact that they will be challenged. The HIBC will be submitting a letter of support, and Young asked Tyler if there is any thing that should be enumerated as coming from the public, specifically in terms of positions and funding the Division is requesting.

Tyler said those who support budget increases and necessary policy changes should be kept informed. The other issue is that the positions can be funded, but as Chinen pointed out there are vacancies.

George Lindsey said the frustrations Tyler expressed are the same ones they have been hearing from Chinen for a long time. Lindsey said he can assure Tyler that Chinen is trying to get exactly what Tyler is asking for. Part of the problem with staffing is really a reflection of the labor market today. Lindsey said for lunches, he really feels there is going to have to be legislation for that, because DAGS does not make that call lightly, there are certain procedures they have to follow and without certain authorizations, lunch cannot be provided. Lindsey is willing to go back and see if there is something that can be done. Lindsey said he wants people to know that Chinen is always in their office asking for help.

Tyler said he was unaware of Chinen's efforts and appreciates G. Lindsey telling him about them.

Ruby McDonald (McDonald) said regarding lunches, the previous administration was very sympathetic to the HIBC's dilemma of traveling from all over. McDonald's thought was that this is a cultural event. Whenever you go to a Hawaiian house, the first thing they tell you is hele mai ai, eat. That is cultural, so this needs to be on a cultural basis not because of procedure. We need to take care of our people.

Norman Gonsalves (Gonsalves) of Papa Ku, Papa 'Aina said it is great to have qualified people. We should have people who are knowledgeable in our culture. Unless the Legislature stops playing games with the people and start putting teeth into bodies like the HIBC where what they say will hold up. Hold these Department heads accountable when they say we don't care what the HIBC says or what the staff says, we are going to do what we want to do.

***A motion was made that the HIBC Chair draft a letter to the DLNR Chair and copy it to the Governor and Lieutenant Governors offices regarding finding a mechanism to provide lunches for the Burial Council. This will show support for the work of the Burial Council, provide symbolism and is culturally appropriate. (Kuali'i Hanoa)***

**Vote: All in Favor**

***A motion was made that the HIBC Chair draft a letter in support of the SHPD's budget request. Input from the public should also be addressed within the letter. The letter will also request that avenues for funding staff positions within the private sector be explored and potential job applicants from UH-Hilo be contacted. (Kuali'i/Nazara)***

**Vote: All in Favor**

***A motion was made to close agenda item III.A. (Sherlock/Hanoa)***

**Vote: All in Favor**

## **B. UNIVERSITY OF PENNSYLVANIA NAGPRA REPATRIATION**

**Information/Recommendation/Determination:** Update on the status of the return of an iwi po'o from the University of Pennsylvania for temporary curation at Pu'uhoonua o Honaunau National Park. Discussion of the history of the iwi po'o as detailed in an April 21, 2006 letter from the University of Pennsylvania. HIBC determination whether to be a

NAGPRA claimant to the iwi po'o and how to transmit the determination to the proper entity.

Keola Lindsey (K. Lindsey) said at a previous HIBC meeting a presentation was made regarding a po'e hawai'i who had identified an iwi po'o within the collections of the University of Pennsylvania. Authorization was given to return the iwi po'o to Hawai'i. The National Park Service, Pu'u honua o Honaunau offered a place to keep the iwi po'o until all of the NAGPRA requirements have been met and the claimants agree to a final disposition.

K. Lindsey said there was an April 21, 2006 letter from the University of Pennsylvania in the HIBC packet this month. The University of Pennsylvania is seeking a response from multiple organizations, including the island burial councils.

Young said the HIBC has already sent a letter requesting that the iwi po'o be returned to Hawai'i and placed in curation at the Pu'u honua o Honaunau. A second letter needs to be sent indicating the HIBC wants to be a claimant in the NAGPRA process.

Ku Kahakalau (Kahakalau) said the issue at hand is we don't know what island the po'o came from. This goes back to communication between the Council's to determine what we do when we don't know what island the po'o came from. We need to work with other Councils statewide to decide what we think is the best situation and place for the iwi to be reinterred. If all the Island Councils claim the po'o it does not look good.

Kahakalau said she would like to hear from the other islands and Hui Malama if there is an agreeable site for iwi with an unknown specific place of origin to be reinterred.

Young asked if the other IBC's have claimed the iwi po'o.

K. Lindsey said he has not had the opportunity to discuss this matter with his counterparts. The matter was potentially on other IBC agendas, but Lindsey does not know what those IBC's determined.

Young asked for that clarity. The iwi po'o has been brought back to Hawai'i Island.

Young asked if Hui Malama has made any recommendations where the iwi po'o should stay permanently.

K. Lindsey said there have been other cases of iwi being brought back to Hawai'i from the University of Pennsylvania by Hui Malama. In those cases the iwi were from Hawai'i Island, so Lindsey understands the thinking to be in this case Hawai'i Island may be an appropriate place.

Elarionoff said it is not the HIBC's fault that the University of Pennsylvania does not know where the iwi po'o came from. They are the ones that took it, they should tell us where it came from.

Young said the task before the HIBC is just to be a claimant under NAGPRA. Young asked if the claimants decide internally amongst themselves the final disposition for the iwi po'o.

K. Lindsey said ideally there will be a consensus amongst the claimants. The HIBC first needs to respond to the University of Pennsylvania's request.

Young asked K. Lindsey to find out if there are any other claimants and if there are none, the HIBC can proceed with a claim letter.

Elarionoff said the letter should not be apologetic.

Kahakalau said she did not mean it at all in that way. We need to look at it statewide to determine a policy in situations where we don't know where the iwi came from.

Dela Cruz asked if there is a place on Hawai'i Island where iwi with an unknown specific place of origin can be reinterred.

K. Lindsey said not at this time. These are handled on a case by case basis.

***A motion was made that the HIBC send a letter to the University of Pennsylvania indicating an interest in being a claimant in this case. (Kahakalau/Kuali'i)***

**Vote: All in Favor**

***A motion was made that SHPD staff work together with IBCs to develop a policy for the reinterment of iwi from the Hawaiian Islands without a specific Island of origin identified. (Kahakalau/Sherlock)***

**Vote: All in Favor**

Geri Bell (Bell) introduced herself to the HIBC. Bell is the Superintendent of Pu'uuhonua o Honaunau. An employee of the park left to continue an advanced degree and that is how he ended up at the University of Pennsylvania and found that there was the po'o from Hawai'i. He contacted Bell knowing that Pu'uuhonua o Honaunau is the resting place of over 208 kupuna iwi. He asked Bell if she would consider allowing the iwi po'o to be placed at the Pu'uuhonua o Honaunau. Bell said of course, Pu'uuhonua o Honaunau is a place of refuge. The individual also contacted Hui Malama who agreed the Park would become the temporary home of the po'o. The University is going through the NAGPRA process. There is a chain of custody, Herbert Poepoe brought the po'o home to Hawai'i. Bell said she had her law enforcement rangers picked up the po'o in Hilo. It was then transported to Hawai'i Volcanoes National Park and then to the Pu'uuhonua. It had to be that way because of the legalities associated with NAGPRA.

Bell said if you talk to the individuals who handled the po'o, they were ecstatic because the po'o knew it was home in Hawai'i. The Pu'uuhonua is Federal property but it is also a significant cultural site for Native Hawaiians.



Bell said that Kahakalau is right in that we do not know where this po'o came from. Bell hopes that this po'o will not become a pawn between the different IBCs. That would not be good. The HIBC should say they want to be a claimant and hopefully keep it here on Hawai'i Island. It does not necessarily have to be the Pu'u'honua, but the Pu'u'honua is home to many of our iwi kupuna not only under the lepo, but in several caves within the Park. Hopefully the claimants will agree that the Park is an acceptable final resting place. Bell said anytime there are iwi kupuna involved, they try their best to help.

Hanoa said in 1981 she was one of the kupuna who went up the Smithsonian to get the iwi kupuna and brought them back. Many of the iwi went into a cave at the Pu'u'honua. Some were claimed and taken to other places, but many stayed in the cave because it is a safe place for the iwi.

***A motion was made to close agenda item III.B. (Hanoa/Kahakalau)***

**Vote: All in Favor**

### **C. CULTURAL DESCENDANCY CLAIMS**

#### **KAPALA'ALA'EA AHUPUA'A, NORTH KONA DISTRICT, HAWAI'I ISLAND**

**Information/Recommendation/Determination:** Department recommendation to the Hawai'i Island Burial Council (HIBC) whether to recognize applicants as cultural descendants to unidentified burials within Kapala'ala'ea Ahupua'a. HIBC determination whether to recognize applicants as cultural descendants.

K. Lindsey referred the HIBC to a September 7, 2006 memorandum which is a staff recommendation that Clarence A. Medeiros, Jr., Jacob L. Medeiros, Kareen K. Medeiros, Lincoln K. Medeiros, Jaimison K. Medeiros, Jayla A. Medeiros and Jaimin N. Medeiros be recognized as cultural descendants to unidentified burial within Kapala'ala'ea Ahupua'a and situated on TMK (3) 7-7-008:001, 099 and 7-7-010:072. Lindsey read the memo into the record.

***A motion was made to accept the staff recommendation and recognize the listed applicants as cultural descendants to the burials within Kapala'ala'ea Ahupua'a. (Kahakalau/Hanoa)***

Elarionoff said the motion does not include the last five words in the staff memorandum "for the purposes of this case." Elarionoff asked if that limits this recognition and if it does, should those words be included in the motion.

Young said his interpretation is that it limits it to these tax map key (TMK) parcels within the ahupua'a.

K. Lindsey said burial notices were placed in the newspaper for burials on this specific TMK.

Chinen recommended the council consider rephrasing their motion so that recognition would be to the burials within the project rather than to the Ahupua'a.

Young said the ahupua'a has more TMK than the listed TMK. The procedure is a staff recommendation to this TMK, which appears appropriate but what would be the situation if there is another project within the ahupua'a, would the applicants have to apply again.

Chinen said they would have to resubmit, but the review process would be quicker.

Tyler said the issue of tying this to a particular burial, considering this is a cultural descendant claim, seems to be the wrong way to go. A cultural descendant claim is not specific to the individual buried within a site. It is much better to make it within the ahupua'a because in addition to what you find in the historic record, the Department has a list of people who have come forward and said they have an interest in an ahupua'a.

Iwalani Arakaki (Arakaki) said she agreed with Tyler.

Kahakalau said she worded the motion this way on purpose based on cultural practices. A cultural descendant claim should be for the entire ahupua'a. A lineal claim is much more specific.

McDonald said she is here to tell the HIBC she is a descendant and it does not matter whether the Department recognizes her or not, she wants to be consulted. McDonald said her 'ohana, Puhu was awarded an LCA in Kapa'ala'ea.

K. Lindsey said the burial treatment plan will be sent to McDonald so she has the opportunity to comment on it. K. Lindsey said he will work on a descendant recommendation for McDonald for next month's HIBC agenda.

Julie China (China) said she believed the proper thing to do would be to recognize the applicants as cultural descendants to the specific burials on the TMK.

Kahakalau said the agenda says nothing about TMK. Kahakalau said she does not recall anything in the rules about TMK. It makes no sense to link a cultural descendant to TMK.

McDonald quoted §13-300-35 of the Hawai'i Administrative Rules. McDonald said there is no mention of TMK or project, it says ahupua'a or district.

Tyler asked if the intention is to make things more difficult, or is it to make it pono.

**Vote: All in Favor**

***A motion was made to close agenda item III.C. (Hanoa/Kahakalau)***

**Vote: All in Favor**

***A motion was made to recess the HIBC meeting. (Sherlock/Young)***

**Vote: All in Favor**

**The HIBC meeting was recessed at 10:54 a.m.**

The HIBC meeting was reconvened at 11:12 a.m.

#### **D. CULTURAL DESCENDANCY CLAIMS**

##### **KOHANAIKI AHUPUA'A, NORTH KONA DISTRICT, HAWAII ISLAND**

**Information/Recommendation/Determination:** Department recommendation to the Hawaii Island Burial Council (HIBC) whether to recognize applicants as cultural descendants to unidentified burials within Kohanaiki Ahupua'a. HIBC determination whether to recognize applicants as cultural descendants.

K. Lindsey referred the HIBC to a September 13, 2006 memorandum (Log No: 0609KL06) which is a staff recommendation that certain applicants be recognized as cultural descendants to unidentified burials within Kohanaiki Ahupua'a on TMK (3) 7-3-009: 003, 014, 032. The staff recommendation is for 75 applicants. The memo was read into the record.

Elarionoff asked what happens if the large TMK are consolidated and subdivided resulting in new TMK for many smaller parcels.

K. Lindsey said the Department would have to update our records with the new TMK. K. Lindsey said the claim is to specific unidentified burials with site numbers, which won't change.

Elarionoff said that confirms his belief that the recognition to the ahupua'a.

Kuali'i agreed.

***A motion was made to recognize the applicants as cultural descendants to Kohanaiki Ahupua'a. (Kuali'i/Kahakalau)***

Tyler agreed that the recognition should be to the ahupua'a. Tyler said he will be submitting a descendency claim also.

Kuali'i said the staff memorandum for the previous item had the TMK where as the memorandum for this agenda item had none. Kuali'i asked if this breaks some sort of ethics code. Kuali'i asked if this matter can even be discussed.

China said the agenda appears clear on what is being discussed.

Young said it has always been his understanding that the HIBC has been recognizing ahupua'a connections.

John Roberts (Roberts) of Kahu o Kahiko introduced himself to the HIBC. Roberts said ahupua'a connections seem to be the most logical way to recognize people. Roberts agreed that TMK seem to be restrictive.

McDonald said she is a descendant to Kohanaiki Ahupua'a.

Kuali'i asked McDonald if she has ever seen a descendency claim tied to a TMK.

McDonald said never.

Keoni Choy (Choy) said he wants to claim as a descendant to Kohananiki Ahupua'a. Within this ahupua'a there is a cave with the Temple of Lono's artifacts in it. There is also a burial cave in Kaloko.

Kuali'i asked if the cultural and lineal descendants claims to the ki'i found within Kohanaiki are recognized by the Temple of Lono.

Choy said yes.

**Vote: All in Favor**

***A motion was made to close agenda item III.D. (Elarionoff/ Dela Cruz)***

**Vote: All in Favor**

**E. DISCUSSION OF §13-300-33 OF THE HAWAII ADMINISTRATIVE RULES (HAR),  
"REQUEST FOR COUNCIL DETERMINATION TO PRESERVE OR RELOCATE NATIVE  
HAWAIIAN BURIAL SITES"**

**Information/Recommendation:** Discussion of the required components of a burial treatment plan. Recommendations from the HIBC on information that should be provided to the Council in addition to the burial treatment plan as allowed by §13-300-33, HAR.

Young said it is required that information be provided to the HIBC in order for the HIBC to make a determination and there is information that the HIBC can request before making a determination. Young said the issue is whether there should be information submitted with every plan as a matter of policy or should it be on a case by case basis.

Kuali'i asked if the HIBC can request detailed construction and grading plans.

K. Lindsey said if those plans exist, yes. The issue is that in many cases detailed construction and grading plans are finalized after the SHPD's issue are resolved.

Kuali'i said in the case of the Kaloko Heights project, the request for the inventory survey and data recovery plan came up because of the reports of many undocumented burials.

Roy Helbush (Helbush) questioned whether staff ask the burial treatment plan applicant what stage certain plans are at.

K. Lindsey said yes.

Young said the one thing that concerns him is the requirement that there be maps showing the spatial relationship between burial sites and construction activities drawn to scale. Young said the HIBC does not see those very often. Grading and construction plans and the inventory survey can also be requested.

Tyler said the HIBC needs all the information to make an informed decision. The rules are very clear. Tyler said the HIBC has been receiving incomplete plans because they do not conform to the rules and there is not sufficient information. The HIBC can request any

plans or information deemed necessary to make a decision, this needs to be a policy and provided by the applicant.

Hannah Kihalani Springer (Springer) said she concurred with Tyler. The more information the HIBC has, the wiser decision you can make. In particular, Springer said the detailed plans showing elevation changes are necessary.

McDonald said she agreed with Tyler and Springer. McDonald said prior to 2002, the HIBC would have detailed presentations on construction and engineering plans. Kualii said the SHPD does sign off on grading permits and can request information related to those permits. Kualii asked how the HIBC can make a good decision without all of the information.

K. Lindsey said a grading permit is just one of the actions the SHPD reviews.

Young said the HIBC could potentially appoint a task force to take a look at the County of Hawai'i's process for subdivisions.

Kahakalau said her big concern has always been inadvertents. Part of the task force Young mentioned should look at the issues of inadvertents.

Choy asked if grubbing and grading permits are approved after burial treatment plans are approved.

K. Lindsey said the SHPD attaches conditions to a permit on how historic and cultural sites should be protected prior to the County issuing the permit.

Choy said inadvertents are a very important issue. Professionalism by archaeologists should be looked at.

***A motion was made to close agenda item III.E. (Sherlock/Kahakalau)***

**Vote: All in Favor**

## **F. BURIAL TREATMENT PLAN**

**PAHOEHOE 2<sup>ND</sup> AHUPUA'A, NORTH KONA DISTRICT, HAWAI'I ISLAND**

**TMK (3) 7-7-008:021**

**Information/Recommendation:** Informational presentation of the burial treatment plan by Haun and Associates. Discussion of the information and details within the burial treatment plan. HIBC recommendations to the Department and the applicant on the information and details within the burial treatment plan.

Alan Haun (Haun) introduced himself and gave an overview of the burial treatment plan for three burials located on the subject TMK parcel. Haun presented conceptual development plans for the property to the HIBC.

Bill Brooks (Brooks) said he is a landowner representative. The landowner is D-Bar Ranch which is a subsidiary of Westpro Development. Brooks said the conceptual plans presented to the HIBC are preliminary and there are no definite plans at this point.

Elarionoff said the inventory survey identified over one thousand features.

Haun said the inventory survey included other TMK parcels. The only burials identified are on the subject TMK.

Young asked if the County has seen similar conceptual plans.

Brooks said yes. Brooks said they have been working with the Planning Department.

Young asked what will happen to the burial easements.

Brooks said they will be "common areas" and put into the CC&R's and handled by the owner's association.

Brooks said they are going through the SMA process before they go any farther. Brooks said he believed the property is zoned RM 2.5.

Kahakalau asked that the burial sites be identified on the conceptual plans.

K. Lindsey said copies of the burial treatment plan were sent to three individuals who are either recognized to other projects in Pahoehoe or indicated a family connection to the area.

Haun said there is an elevation change on the property.

Kahakalau requested that the topography of the property be shown on the plans.

Kuali'i said it is important that the trail located on the property be preserved.

Young said the HIBC can consider conducting a site visit.

Tyler said he has met with the developer to discuss this project. Tyler thanked Haun for providing the inventory survey and preservation plan to him. Tyler said it is his understanding the Hawai'i County Planning Commission has voted to deny the SMA for the project. That may have been reconsidered.

Tyler said the development is makai of the Ali'i Highway corridor. The inventory survey does not address the highway corridor. Tyler thanked Haun and Brooks for the additional 10 foot setback from the permanent buffer zone and the construction of a rock wall using rocks from the property. Tyler said the 50 foot temporary construction buffer appears appropriate in this specific case.

Tyler said the CC&R's associated with the burial sites should be reviewed by the SHPD and the descendants before they are recorded with the Bureau of Conveyances. Once they have been recorded, copies need to be sent to the SHPD and the recognized descendants. Tyler said the preservation measures within the plan should be implemented no later than 90 days following approval with written confirmation being sent to the SHPD and the recognized descendants. Tyler said Grant 1927 to Kipapa extended

mauka of the Pa Kuakini and did not stop at the Pa Kuakini as indicated on page 11 of the plan. Tyler said that there should be a condition in every burial treatment plan that there be no grubbing or grading approvals by the SHPD until all temporary buffers are in place and approved. Tyler said the plan does not mention landscaping or maintenance within the burial easements. Tyler said only the portion of the trail depicted by a dotted line in the plan will be preserved.

Arakaki said she reserved her rights to comment until a later time.

Choy said the written confirmation of the preservation measures being implemented is very important. This applies to all lands in Hawai'i.

***A motion was made to close agenda item III.F. (Hanoa/Sherlock)***

**Vote: All in Favor**

#### **G. BURIAL TREATMENT PLAN**

##### **KAULANA, AWALUA, OHIKI, PU'UKALA AND KAU AHUPUA'A**

##### **NORTH KONA DISTRICT, HAWAII ISLAND TMK (3) 7-2-007:001**

**Information/Recommendation:** Informational presentation of the burial treatment plan by Haun and Associates. Discussion of the information and details within the burial treatment plan. HIBC recommendations to the Department and the applicant on the information and details within the burial treatment plan.

Haun gave an overview of the burial treatment plan for three burials on the subject TMK parcel. The parcel includes and surrounds the Makalei golf course. Lynch Development Hawai'i, LLC is the landowner. Copies of the plan were provided to four individuals who have indicated a family connection to the land. Haun distributed a conceptual development plan for the project to the HIBC. The sites will be depicted on a future version of the development plans. Haun said much of the project is former ranch land and has been bulldozed or chain dragged.

Tom Yamamoto (Yamamoto) introduced himself to the HIBC. Yamamoto said he is a landowner representative.

Elarionoff expressed concerns regarding the translation of several place and the names of individuals on pages 6 and page 7 of the plan. Elarionoff said he is glad to see the rock walls will be concrete reinforced.

Kahakalau said she would like to see the inventory survey. The burial treatment plan needs to show the spatial relationship of construction activities near the burial sites drawn to scale.

Young asked if monitors will be on site.

Haun said the plan does not propose monitors.

Kuali'i said there needs to be one monitor per machine operating on the property.

Yamamoto said the project will be in two phases. The lower portion will be first. There are a 111 lots total and the first phase is about 45 lots.

Springer said she is a lineal descendant of the individuals referred to on page 8 of the plan. Springer said she is involved as a consultant to the project with the developer. Springer said she has had the opportunity to review the plan and stands by it. Springer said she appreciates and respects the comments the HIBC have made. Springer said Haun was referencing Pukui when translating the people and place names on page 6 and 7 of the plan. Springer said "Kau" should have a kahako over the u.

Choy said the trails are protected by the 1892 Highways Act and need to be preserved in their entirety.

Tyler said the 1954 Territorial Highway Map shows a trail from Pu'ukala schoolhouse to Makalawena schoolhouse. This is an identified roadway and traverses these ahupua'a.

***A motion was made to close agenda item III.G. (Kahakalau/Sherlock)***

**Vote: All in Favor**

***A motion was made to recess for lunch (Kahakalau/Sherlock)***

**Vote: All in Favor**

**The HIBC meeting was recessed at 1:34 p.m.**

**Kahakalau left the meeting during the recess. Quorum was maintained.**

**G. Lindsey left the meeting during the recess.**

**The HIBC meeting was reconvened at 2:12 p.m.**

#### **IV. CASE UPDATES**

##### **A. HOKUKANO AND KAALAIKI AHUPUA'A KA'U DISTRICT, HAWAI'I ISLAND TMK (3) 9-5-016:036**

**Information/Recommendation:** Discussion of community concerns regarding burial sites on the TMK parcel and possible impacts to the burial sites by the construction of a home on the property. Discussion of the history of the property and archaeological reports related to the property and area. HIBC recommendations to the Department on how to proceed with the identification of and protection for any burial sites on the property.

K. Lindsey referred the HIBC to a staff memorandum dated April 27, 2005 which provides the background on this agenda item.

Hanoa said a house was constructed in the Conservation District. The current owners were supposed to build on an area previously grubbed in 1978, but they did not and graded a larger area where there was a previously identified cemetery. The house was built in 2004. There is a turtle nesting area in a bay below the house.



Hanoa said in 1962, archaeologists identified about 20 graves in the area where the house is built. The DLNR allowed the house to be built on the graves. There is a map that shows a cemetery in this area. The DLNR fined the landowner for what happened.

Sherlock said the SHPD conducted a site inspection and found the graves.

K. Lindsey said the SHPD site inspection did confirm sites on adjacent State land. When the CDUA was with the SHPD for comment, the SHPD said as long as the house was built on the previously graded 1978 area there were no concerns. The question is whether this previously graded area was made bigger and that is something the DLNR has not determined at this point.

K. Lindsey said the issue of the burials was brought before the Land Board, but the design of the house was what the Land Board took action on.

Young asked if it has been determined that there were burials on the site originally.

K. Lindsey said there may be oral family histories within the community. Although the written historical record from the Bishop Museum work in the 1960's identifies burials, the sites were not excavated or located.

Elarionoff said he is familiar with this area and the graded area has been covered with material to cover up any signs of what was there. Elarionoff asked since the landowner was fined, does that nullify the issue.

China said she does not know what the fine was for specifically.

Young said it does not appear the burials have been addressed. The landowner may have been fined or permits revoked because of the house design.

Kuali'i said it is very disturbing that the State allowed these landowners to build on this cemetery. The State and the landowners knew about the cemetery and the State still allowed it and the landowner still built it.

Young said a burial treatment plan was never required.

Dela Cruz asked if the HIBC has the purview to request a burial treatment plan. Perhaps the HIBC needs to make that demand. If there are burials beneath this home, something needs to be done.

Young said it is surprising that this issue never came before the HIBC and that an inventory survey was never required.

China said the issue has never been formally brought before the HIBC.

Elarionoff asked what will it take to bring the issue up formally.

K. Lindsey said the SHPD will review the information and then forward the matter to the appropriate agencies to look at the violation issue.

Elarionoff asked Chinen how this matter should be dealt with.

Chinen said she is not familiar with what has gone before the Land Board. OCCL has looked at the issue of penalties.

Young said there is a strong indication from the historical record that there are gravesites on this property, specifically where this house is. In applying and receiving permission to build this home, why was construction allowed to proceed without a burial treatment plan. The question is can that process be opened again and who would do that. If burials were disturbed, that is another issue that someone needs to look at.

Chinen said the burials where the house is located may have been destroyed by a previous landowner.

Hanoa said nobody removed the graves, they were covered.

Chinen said legal remedies and potential 6E violations will be reviewed. Whether a burial treatment plan can be required also will be reviewed.

McDonald quoted §13-300-3 of the Hawai'i Administrative Rules.

Tyler also referred the HIBC to §13-300-3, HAR and referred the HIBC to §13-300-24(h), HAR. Tyler said from these rules, the HIBC has the ability to take action. The HIBC should also look at their subpoena powers. The AG needs to research this matter and provide the HIBC with the necessary information.

Tyler said Chapter 10 of the Hawai'i County Code, also known as the grubbing and grading ordinance is under consideration for revision. A proposed draft has been prepared. The Hokuli'a Settlement requires that revisions to Chapter 10 consider cultural issues.

China said the AG who normally assists the SHPD will be getting more of the facts involved with this case and the results will be reported back to the HIBC.

Elarionoff said he hoped it can be done expeditiously.

Young said the community and historical records have identified burials in this area.

Chinen said the first issue is whether the former landowner knowingly destroyed the cemetery 30 years ago. The second issue is whether a burial treatment plan can be required retroactively. She also indicated that burial treatment plans are required for previously identified and inadvertent burials, but not for cemeteries. The third issue is whether the graded area got bigger.

Young said the State is not acknowledging there are or were burials there.

Kuali'i said a house was built on a burial site. The question is what the HIBC can do.

***A motion was made that the HIBC chair write a letter to the SHPD requesting a legal opinion on this matter be received from the Attorney General's office. The letter will also be sent to the DLNR Chair, OCCL and the Governor's offices. (Kuali'i/Helbush)***

McDonald said this issue was never brought before the HIBC. The issue is a huge problem and needs to be rectified.

Young said it needs to be legally determined what action the HIBC can take. That is the goal of the letter.

Tyler said the research has to be done by the AG. He believes the HIBC needs to determine if they have subpoena powers. Tyler also stated that the kupuna can provide sworn affidavits and those combined with the maps are enough.

**Vote: All in Favor**

**Chinen and China left the meeting at 3:15 p.m.**

Kuali'i said he is disturbed that Chinen and China left the meeting. The AG is the HIBC's legal consul and if they leave, Kuali'i said the meeting should end. Kuali'i had specific issues he wanted Chinen and China to address.

Young said the matters Kuali'i wanted to address to Chinen and China can be deferred until the next meeting.

Kuali'i said those matters cannot wait.

***A motion was made to close agenda item IV.A. (Hanoa/Sherlock)***

**Vote: All in Favor**

**Hanoa left the meeting at 3:25 p.m. Quorum was maintained.**

## **B. KANUPA CAVE, KALALA AHUPUA'A, KOHALA DISTRICT, HAWAI'I ISLAND**

**Information/Recommendation:** Discussion of a motion passed at the April 20, 2006 HIBC meeting authorizing the HIBC Chair to sign a letter with other NAGPRA claimants recommending that the State of Hawai'i conduct an investigation into the theft of items from Kanupa Cave. Discussion of the history and recent events relative to Kanupa Cave.

K. Lindsey referred the HIBC to letters dated 5-25-06 and 6-7-06 signed by the NAGPRA claimants to items and iwi from Kanupa Cave. K. Lindsey said he is unaware of any responses to these letters.

K. Lindsey said it is his understanding the individuals accused of breaking into the cave have pleaded guilty to certain Federal charges and their sentencing is forthcoming.

***A motion was made to close agenda item IV.B. (Helbush/Dela Cruz)***

**Vote: All in Favor**

## **II. APPROVAL OF THE JULY 20, 2006 HIBC MEETING MINUTES**

Kuali'i said he would like Chinen at the next HIBC meeting.

Kuali'i offered a pule.

***A motion was made not to approve the July 20, 2006 meeting minutes because they do not accurately reflect the context of the discussions. An accurate transcribed record needs to be in place. (Kuali'i)***

Kuali'i said he listened to the recorded tapes of the meeting. The HIBC touched on some very significant issues at the July meeting: the presence of a bulldozer on the property was discussed and not reflected in the minutes and Elarionoff's testimony on archaeologists reference to human sacrifice at a specific site on the project. If the HIBC and the public want to prevent perpetuating speculation and lies in the meetings on certain practices, then the discussions need to be accurately recorded. The subject matter is sensitive but Kuali'i said Elarionoff's point was to prevent the perpetuation of inaccurate information and the information he was referring to needs to be in the minutes. These minutes will be utilized and referenced by future generations. Kuali'i asked if this is the legacy that will be left for the future generations.

Kuali'i said he trusts K. Lindsey, but somewhere between Kona and Kapolei these things have been falling through the cracks. Kuali'i said he listened to all the tapes. In case anyone at the July meeting did not get a chance to understand what Tyler's testimony was about, Kuali'i wanted to make it very clear what the situation is and describe the essence of the meeting's discussion.

Kuali'i said it needs to be very clear that there are two plans. The first is the preservation plan, the second is the burial treatment plan. Within 90 days of the HIBC's determination to preserve in place in June, the burial component of a preservation plan is approved. The HIBC, the public and the families need to understand that the buffers for the burial sites were incorporated into the preservation plan, which normally just deals with non-burial sites. What they did was a shell game. They shuffled the buffers for the burials into the preservation plan, which you normally don't see. Kuali'i said he missed that and he is sorry.

Kuali'i said K. Lindsey just distributed letters related to this matter to the HIBC. Kuali'i said this is very frustrating and asked why these letters were not in the mail packet.

The buffers are the same in both plans. One of these plans, as a matter of practice is not reviewed by the HIBC. In simple terms, the SHPD Administrator Melanie Chinen went ahead and approved the buffers for burial sites in a preservation plan before the HIBC had concluded making recommendations for the buffers in the burial treatment plan.

Kuali'i said Chinen stated in the accurate version of the minutes that she does not approve grading permits. As it was stated earlier, the SHPD signs off the permit, so Chinen has to take responsibility.

Kuali'i said that Chinen also said earlier that each burial is dealt with individually, which contradicts what she said in July.

Kuali'i said other than the temporary buffers, the information about burial details is documented in a burial treatment plan, separate from the preservation plan. They hid the burials in the preservation plan and the SHPD approved it. It is unacceptable for the SHPD to accept things piecemeal and separate the burials from the burial treatment plan. Kuali'i challenged the SHPD to give examples of where this happened, it is setting a bad precedent.

Kuali'i said Chinen came to the HIBC in July and stated that the preservation plan was approved but the department was still reviewing the proposed measures for the seven burial sites. Meanwhile a bulldozer was cutting and ripping 20 feet from the iwi kupuna. Kuali'i said Chinen said a 20 foot buffer was the standard. Kuali'i said there is no standard. Chinen approved the buffers without considering the HIBC's input.

Kuali'i said either everything has to be integrated into one plan, or everything about the burials is put into one plan so it is not separated. What is happening is a shell game. Kuali'i said for Chinen to assume that she is uniquely qualified to make decisions alone on buffers before the HIBC is ready to send recommendations to her and to leave the HIBC with just decisions on landscaping is unbelievable and extremely insulting to the HIBC's professional and collective experience. The Kona community is the most development savvy community in Hawai'i.

Kuali'i said we all know why Chinen did what she did, because Kaloko Heights needed to get started. Kuali'i said Chinen needs to let the HIBC do their job. When the HIBC has completed their process, then there can be a final approval.

Kuali'i said the HIBC and Chinen are appointed by the Governor. Kuali'i said he knows it is frustrating for Paul Kay, but we all have to wonder if Kaloko Heights and the SHPD spent as much time being straight and honest with the HIBC in making a tough decision that went against the wishes of the Council, as Chinen did, confusing the issue by splitting burial treatment recommendations into two documents and seeking independent approvals to fast track the project, we might not be here over this.

***A motion was made that the SHPD seek a revision to the preservation plan such that all references to burial sites are removed and that all recommendations are placed in their entirety in the burial treatment plan where they belong. As an alternative, the components of the preservation plan and the burial treatment plan can be integrated into one document. There was no reason for the burial treatment proposals to be split into two documents other than to serve Stanford Carr's ability to obtain the SHPD's ability to break ground before the HIBC had completed their deliberations. (Kuali'i)***

Tyler said Kualii already made a motion regarding the minutes and suggested a second to that motion and a vote before moving on.

Young said he is giving Kualii some latitude because the minutes and agenda item IV.C. are related.

***A motion was made not to approve the July 20, 2006 HIBC meeting minutes as submitted because they do not accurately reflect the content of the discussions related to the Kaloko Heights agenda item. The Kaloko Heights portion of the minutes should be transcribed verbatim. (Kualii/Nazara)***

Kualii said it is amazing what was left out of the July minutes.

Tyler requested to receive copies of the HIBC meeting minutes for June and July and 2006. Tyler requested a copy of the SHPD's Administrators July 20, 2006 written response to the HIBC's June 15, 2006 recommendations.

Young apologized for not getting the letter to Tyler.

K. Lindsey provided a copy of the letter to Tyler.

Tyler withdrew the letter request. Tyler said he has been told by the County of Hawaii Department of Public Works that the permits for the Kaloko Heights project were approved by Chinen. That is a problem because the bulldozers are working as we speak.

Tyler said he regards the issue Kualii referred to of putting certain burial issues within the preservation plan as segmentation.

Tyler said he referred to the problems within the SHPD earlier. Tyler said there have been 14 departures since Chinen became Administrator and at least 4 union grievances.

Tyler said Chris Monahan is no longer with the SHPD. Monahan is the same individual who reviewed the preservation and data recovery plans for Kaloko Heights. Monahan used to work for the Kaloko Heights project archaeologist.

**Vote: 6 ayes (Elarionoff, Dela Cruz, Kualii, Nazara, Helbush, Young)  
1 abstention (Sherlock)**

**The motion carried.**

**A motion was made that all HIBC meeting minutes be verbatim. (Kualii/Young)**

Kualii said out of all the HIBC meeting minutes he has seen, the July minutes are lacking to say the least. Verbatim minutes will prevent the SHPD from picking and choosing what is transcribed. This is nothing against the SHPD-Kona office, but somewhere between Kona and Kapolei things are falling through the cracks. People need to be held responsible and accountable.

Sherlock said verbatim minutes are a lot of work.

Elarionoff said he uses the minutes to stimulate his memory. Kualii'i had the opportunity to go back and listen to the tapes because the submitted minutes bothered him. Elarionoff said if something bothers him, he will go to K. Lindsey to get the tapes.

Helbush said the HIBC has the ability to correct anything that is wrong in the minutes and the HIBC should ask the SHPD why things were left out.

Dela Cruz agreed with Elarionoff and Helbush. If there is something wrong, it can be corrected.

Nazara said the HIBC has the ability to get the tapes if something is missing or bothering an HIBC member.

Young said in this particular case, verbatim minutes would have helped a lot.

Kualii'i said that he does not want to make more work for K. Lindsey, but the minutes need to be accurate.

Tyler said he understands the concerns expressed on both sides of this issue. An alternative to the verbatim minutes is keeping a recorded version available for review.

**Kualii'i said he withdrew his motion.**

Young said the State should move towards digitally recoding the minutes which will make them easier to distribute to the HIBC members, who can then review them and request any necessary revisions.

Lindsey said a digital recorder should be in use by the October HIBC meeting.

Elarionoff said the HIBC should have voted on the motion since it shows that Kualii'i is not happy with how things are now.

***A motion was made that all Hawai'i Island Burial Council Meeting minutes be verbatim. (Kualii'i/Young)***

Choy said people come to the meetings and testify to get things on the record. The possibility of constructive fraud by selective elimination of evidence, facts or points of law whether it be innocent or on purpose needs to be eliminated. Accurate records help everybody and eliminate finger pointing.

**Vote: 1 aye (Kualii'i)**

**6 nays (Dela Cruz, Elarionoff, Helbush, Nazara, Young, Sherlock)**

**The motion failed.**

***A motion was made to close agenda item II. (Nazara/Elarionoff)***

**Vote: All in Favor**

**C. FINAL PRESERVATION PLAN FOR BURIAL SITES WITHIN THE KALOKO HEIGHTS PROJECT  
KALOKO AND KOHANAIKI AHUPUA'A, NORTH KONA DISTRICT, HAWAI'I ISLAND  
TMK (3) 7-3-009:032**

**Information/Recommendation:** Discussion of the status of a final preservation plan for burials within the project area. Discussion of HIBC recommendations made at the March, April, May and June 2006 HIBC meetings relative to the identification and protection of Native Hawaiian burials within the project area.

***A motion was made that the SHPD Administrator Melanie Chinen be present at the October 2006 HIBC meeting specifically to discuss the final preservation plan for the Kaloko Heights project. (Kuali'i/Nazara)***

**Vote: All in Favor**

Young said the HIBC will lose quorum, so the remainder of the agenda needs to be deferred.

McDonald said she has concerns regarding agenda item V.C. By the time it is heard next month, the damage will be done. McDonald said she opposes the relocation. McDonald said there are HIBC members like Jacqui Hoover, who never come to the meetings and this affects the quorum. Roger Harris' term expired and he has not been replaced.

Gonsalves said if Kaloko Heights is deferred, the destruction of the burials by the D9s will be done. They have wiped out a lot of burials that Kahu o Kahiko have GPS recorded and now they are getting into areas where there are nothing but burials in there. They are grubbing and cutting trails going over burials and everything they could. By next time all of these beautiful burials will be gone.

Young asked what action the HIBC can take that will change that.

Gonsalves said it will send a message. There needs to be someone monitoring what is going on out there.

Tyler said they have one monitor per machine. Gonsalves took the monitor to a site where it was believed there were iwi. There was an obvious cave there. The contractor requested the archaeologist come back in and take a look. Tyler does not know what happened. Now there are more allegations of burials in the makai portion.

Young asked if there are inadvertents.

Tyler said no, there are allegations of multiple burials in the lower portion. The archaeologist needs to verify what is there and Gonsalves needs to be there.

Young asked if the developer is allowing access.

Tyler said yes.



Young said we have been through this. Young said he made a motion regarding the cooperation that needed to occur between those who were concerned about the additional burials and the DLNR and the developer.

Young said he asked the developer if he knew about the sites alleged to have the additional burials and the developer flatly denied on the record that those sites were burials. At that point it was recommended that both parties get together and verify the information. Young asked if that ever happened.

Roberts said eight of them went in on the weekend.

Young asked if it was with the developer.

Roberts said the contractor, EM Rivera. The archaeologist that came with them was not aware of the sites.

Tyler said Tom Wolforth was called back to assess this information. Tyler does not know what happened.

Gonsalves said nothing happened.

Young said they are grubbing now with a monitor. Young asked if any burials have been reported.

Gonsalves said there is evidence. They have found sites with kukui destroyed. The kukui was used to light the journey. This is not kukui from rats, this is a tremendous amount of kukui.

Gonsalves said he went there two days ago and it is really sad to see all the animals displaced. He saw a baby 'io in the middle of the trail because his home was destroyed, for Stanford Carr, who is notoriously known for building million dollar slum homes. It is sad.

***A motion was made that the SHPD seek a revision to the preservation plan such that all references to burial sites are removed and that all recommendations are placed in their entirety in the preservation component of the burial treatment plan. As an alternative if burial site treatment is ever presented in another preservation plan for a project or property for burial and non burial sites that they be integrated into a single document. (Kuali'i/Young)***

**Vote: All in Favor**

***A motion was made to defer the remainder of the September 2006 HIBC agenda. (Kuali'i/Sherlock)***

**Vote: All in Favor**

**D. FINAL PRESERVATION PLAN FOR FEATURE E OF SIHP SITE 1915  
O'OMA 2<sup>ND</sup> AHUPUA'A, NORTH KONA DISTRICT, HAWAI'I ISLAND**

**TMK (3) 7-3-009:023**

**Information/Recommendation:** Discussion of the Department's determination to concur with the applicant's proposal and preserve the subject burial site in place. Discussion of the 45-day statutory timeframe for the HIBC to render a determination expiring prior to the September 2006 HIBC meeting. HIBC recommendations to the Department relative to the short and long term protection of the burial site.

**E. "FORBES CAVE", KAWAIHAE, SOUTH KOHALA, HAWAI'I ISLAND**

**Information/Recommendation:** Discussion of recent media reports indicating that items formerly in the control and possession of the Bishop Museum which had been returned to a cave in Kawaihae from which they originated from have recently been removed.

**V. INADVERTENT DISCOVERIES**

**Information/Recommendation:** Informational presentation by SHPD staff on inadvertent discoveries of skeletal remains reported to the Department in the month of June and July 2006 on the following properties.

**A. TMK (3) 1-7-024:065 and 1-7-024:28 Ola'a, Puna District, Hawai'i Island**

**B. TMK (3) 6-5-004:071 Waimea, Kohala District, Hawai'i Island**

**C. TMK (3) 7-3-009:003, 014 Kohanaiki Ahupua'a, Kona District, Hawai'i Island**

**VI. ANNOUNCEMENTS****VII. ADJOURNMENT**

*A motion was made to adjourn the September 2006 HIBC meeting.  
(Kuali'i/Elarionoff)*

**Vote: All in Favor**

**The HIBC meeting was adjourned at 4:27 p.m.**